

DEPARTMENT OF STATE REVENUE

REVENUE RULING 2001-06ST

JULY 26, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE I

Sales tax: Application of sales tax to not-for-profit University.

Authority: Ind. Code 6-2.5-5-25, 45 IAC 2.2-5-55

The taxpayer requests the Department to rule on the application of sales tax to a not-for-profit University when renting a hotel room for a recruit.

ISSUE II

Innkeeper's Tax: Application of innkeeper's tax to not-for-profit University.

Authority: Indiana Code 6-9-8

The taxpayer requests the Department to rule on the application of innkeeper's tax to a not-for-profit University.

STATEMENT OF FACTS

The taxpayer ("school") is a not-for-profit University located in Indiana. When recruiting to fill a position, the school will bring candidates to Indiana for interviews, often requiring an overnight stay in a local hotel. All overnight stays are billed directly to the school.

DISCUSSION I

IC 6-2.5-5-25 states "transactions involving tangible personal property or service are exempt from the state gross retail tax, if the person acquiring the property or service: is an organization which is granted a gross income tax exemption under IC 6-2.1-3-20, IC 6-2.1-3-21, or IC 6-2.1-3-22; primarily uses the property or service to carry on or to

raise money to carry on the not-for-profit purpose for which it receives the gross income tax exemption; and is not an organization operated primarily for social purposes.”

The exemption is further clarified by 45 IAC 2.2-5-55. “The organization is not operated predominantly for social purposes. The article purchased must be used for the same purpose as that for which the organization is being exempted. *Purchases for the private benefit of any member of the organization or for any other individual, such as meals or lodging, are not eligible for exemption* [italics added].”

For the school’s purchase to qualify for tax-exempt status, it must ‘primarily use the property or service to carry on...the not-for-profit purpose for which it receives the gross income tax exemption.’ The school’s tax-exempt status, the primary purpose, is its educational mission.

A purchase for the private benefit of an individual is a purchase for which the individual, and not the organization, receives the advantage.

RULING I

The taxpayer will not be exempted from paying sales tax on a hotel room used for recruits.

DISCUSSION II

An innkeeper’s tax is levied on every person engaged in the business of renting or furnishing lodgings for less than 30 days in Marion County. IC 6-9-8-2 states that “All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section except to the extent such provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer.”

An exemption does exist if the taxpayer is exempted under IC 6-2.5. The reasoning used in “Discussion I” of this ruling is also applicable to the liability for the Marion County innkeeper’s tax.

RULING II

The school is also subject to the Marion County innkeeper’s tax when renting a room for a recruit for a period of less than thirty (30) days.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer’s facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other

taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, changes in statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

INDIANA DEPARTMENT OF REVENUE